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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Gita Mishkin,

10 Plaintiff,

11 v.

12 ICON PLC, et al.,

13 Defendants.
14

No. CV-24-01423-PHX-KML

ORDER

15 On January 30, 2025, the court dismissed without leave to amend plaintiff Gita
16 Mishkin's claim under the Equal Pay Act. (Doc. 34 at 4-5.) On February 27, 2025, Mishkin
17 filed a "FRCP Rule 54(b) Motion to Reinstate Equal Pay Act Claim." (Doc. 40.) Defendant
18 Pharmaceutical Research Associates Inc. then filed a "notice" stating Local Rule 7.2(g)'s
19 fourteen-day deadline for a motion for reconsideration meant Mishkin's motion was
20 untimely. (Doc. 41.) Mishkin then filed another document explaining she

21 does *not* seek reconsideration of the dismissal of her EPA claim based upon
22 the facts in her First Amended Complaint ("FAC") cited by the Court as
23 insufficient under FRCP Rule 12(b)(6) but instead seeks reinstatement based
upon other allegations in her FAC that were *not* the basis for the dismissal.

24 (Doc. 42 at 2.) According to Mishkin, this type of request is not subject to Local Rule 7.2(g)
25 because she is seeking "reinstatement" not "reconsideration." Mishkin also argues Rule
26 54(b) allows a court to revise its orders "at any time before the entry of judgment of a
27 judgment adjudicating all the claims." Because of that language, any attempt to apply Local
28 Rule 7.2(g) to her request would be "incompatible with the FRCP." (Doc. 42 at 3.)

1 Mishkin's claim that she is not seeking reconsideration of the prior order is
2 incorrect. And the court is skeptical of her interpretation that Local Rule 7.2(g) is
3 incompatible with the language of Rule 54(b). *See Liberty Mut. Ins. Co. v. Sumo-Nan LLC*,
4 No. CV 14-00520 DKW-KSC, 2015 WL 5209345, at *1 (D. Haw. Sept. 4, 2015) ("There
5 is nothing in Fed.R.Civ.P. 54(b) that limits the District Court's authority to promulgate a
6 rule [addressed to motions for reconsideration] that includes timeliness requirements.").
7 But there is no need to address the impact of Local Rule 7.2(g) because that rule does not
8 purport to impose a complete bar on considering untimely motions for reconsideration.
9 L.R. 7.2(g) (requiring motions be filed within fourteen days "[a]bsent good cause"). And
10 on its merits, Mishkin's motion fails.

11 The EPA claim was dismissed because Mishkin had not alleged she and the male
12 comparators were employed on the date the commissions became payable, a requirement
13 for payment under the compensation plan at issue. (Doc. 34 at 2, 4-5.) Having resigned
14 before any of the commissions were paid to males, Mishkin had not plausibly alleged she
15 was paid different wages for equal work. (Doc. 34 at 4.) Mishkin's motion to amend her
16 EPA claim does not address this issue. Instead Mishkin alleges that "even if [she] had not
17 resigned, Defendant had already taken away [her] earned wages." (Doc. 40 at 28.) But
18 again, the EPA claim was dismissed because Mishkin's own allegations indicated she was
19 not eligible for payment of those alleged "earned wages," while the male comparators were
20 eligible. Mishkin is not entitled to pursue her EPA claim.

21 **IT IS ORDERED** the Motion (Doc. 40) is **DENIED**.

22 Dated this 17th day of March, 2025.

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26 **Honorable Krissa M. Lanham**
27 **United States District Judge**
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